

CHAPTER 8. RENT REGISTRATION

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801. Proper Filing of the Rent Registration Statement

(A) A rental unit is properly registered in accordance with Section 8 of the Rent Stabilization Ordinance if the landlord or landlord's representative has:

(1) Filed with the Board completed registration statements, on forms provided by the Board, including all of the information required for the individual units and the information concerning all the covered units in the same property;

(2) Paid to the City of Berkeley all required registration fees and penalties due for the unit and all the covered units in the same property; and

(3) Fully completed registration for all covered units on the same property parcel.

(B) A landlord who asserts that he or she is unable to supply required information may request review of his or her registration status by the Rent Stabilization Board Executive Director or the Executive Director's designee. The Executive Director or designee shall determine whether good cause exists to find the landlord properly registered notwithstanding the lack of required information. The request for review shall be made on a form approved by the Executive Director and shall include, without limitation, a declaration under penalty of perjury fully describing the landlord's efforts to obtain the missing information. The Executive Director may specify the nature and extent of the efforts, and documentation thereof which is required. The landlord shall serve a copy of the request for review on all current tenants in the property and known prior tenants who resided in the premises during the time period for which the information is missing. A proof of service by mail on said tenants shall accompany the request for review. The tenants may submit in writing to the landlord any relevant information concerning the request for review within ten (10) days of the date of service of the request upon them. A copy of this information submitted to the landlord shall be filed with the Board. It shall be accompanied by a proof of service by mail upon the landlord. The Executive Director or designee shall determine whether or not the inability to provide the required information resulted from circumstances beyond the control of the landlord. If it is determined that the landlord was not at fault and that the missing information cannot now be produced nor reasonably reconstructed from any available information, the landlord may be found to be properly registered notwithstanding the lack of information. If the reason for the unavailability was within the control of the landlord, no relief shall be granted unless the landlord demonstrates that he or she has otherwise substantively complied with the Ordinance and that the landlord has made all reasonable efforts to obtain or reconstruct the information which is unavailable. A copy of the determination shall be mailed to the landlord and to the tenants of the affected property. The Board may establish an appropriate fee for the filing of a request for review of registration status. No rent withholding petition for non-registration shall be acted upon while a request for review is pending.

(C) In designating a rental unit as properly registered, the Board's intent is to facilitate

the rent registration and individual adjustment of rent ceiling processes and the dissemination of information regarding the registration of rental units. Such designation shall not be construed as the Board's certification of the lawful base rent, current lawful rent ceiling or any other information provided on the rent registration statement. Nothing in this Regulation shall preclude the Board nor any person from challenging the accuracy of any information provided in any registration statement or declaration in the context of any proceeding or action.

(D) As used in this Regulation, "rent registration statement" shall include the initial registration statement, any required annual registration statement, any vacancy registration form required under Regulation 1013(K) and any supplemental registration statement approved and required by the Board. For units covered by B.M.C. 13.76.050I and B.M.C. 13.76.050O, "rent registration statement" shall include the "Registration Statement for Partially Covered Units", all required "Tenancy Registration Forms For Partially Covered Units" and any other supplemental or additional registration forms the Board requires. This subsection is intended to clarify the existing requirements concerning filing of initial, annual, vacancy and supplemental registration statements.

(E) When the Board determines that it is reasonably necessary to carry out the purposes of the Ordinance, the Board may require landlords to furnish information missing from any initial or annual registration statement or to complete a supplement registration statement approved by the Board. This may include information which was requested on the 1980-81 registration statement but which was not required by this regulation, or specifically enumerated in the Ordinance at the time the registration statement was filed but which the Board finds it necessary for proper administration of the Ordinance. Any such request for information request for completion of a supplemental registration statement shall be responded to within a reasonable time period to be determined by the Board. If the landlord is unable to supply the information requested, the landlord shall comply with subsection (B). Any request for review pursuant to subsection (B) shall be made within the time specified by the Executive Director. If the landlord does not respond to the request or request review of his or her registration status within the specified time, the landlord may subsequently be held to be unregistered thereafter notwithstanding the fact that the landlord would have otherwise been deemed to have been properly registered under the law and regulations existing at the time the statement which omitted the requested information was originally filed. Any such determination of non-registration shall be prospective only.

(F) Nothing in the subsection (E), above, shall be construed to relieve any landlord of the duty to fully register all his or her covered units and to supply all requested information merely because the Board has not advised landlord of any information which may be omitted by the landlord from the initial, annual or any supplemental registration statements.

(G) A landlord shall be found in substantial compliance with registration requirements of the Ordinance and Regulation when:

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(1) The landlord has made a good faith effort to comply with the Ordinance and regulation concerning registration sufficient to reasonably carry out the intent and purpose of the Ordinance and Regulations; and

(2) The landlord has cured any defect in compliance in a timely manner after receiving notice of a deficiency from the Board.

[Regulation 801 revised in its entirety effective April 13, 1983; Subsection 801(G) adopted March 3, 1986; amended November 21, 1986; Subsections 801 (A), (B), (E) and (F) amended effective June 6, 1997; Subsection (D) amended December 27, 1998; Subsection (D) amended January 20, 2022 to make clear that landlords must file certain registration statements for partially covered units.]

802. Registration of Rental Units Occupied by Group Living Arrangements ****REPEALED****

(A) Each rental unit which is occupied by a group living arrangement shall be registered by the owner or landlord of the property parcel.

(B) If one or more residents of the group living arrangements has leased or rented the rental unit from the owner or landlord and sublets portions of the premises to other residents, said sublessor shall complete a supplemental registration statement on a form approved by the Board. The registration statement shall include the rent actually paid by each subtenant, the total rent collected from all subtenants and the total rent for the premises paid to the owner or landlord. The registration statement shall also set forth the housing services, if any, provided by the sublessor and the charges, if any, for such services.

[Regulation 802(A) and (B) **repealed, effective June 6, 1997**]

803. Changes in Exempt Status

(A) Within sixty (60) days of the date a formerly exempt rental unit comes under coverage of the Ordinance, the landlord shall file an initial registration statement, or an amended registration statement of an initial registration statement has been previously filed, for the rental unit. The registration fee for the unit shall be prorated based on the number of months remaining to the next September 1 annual registration deadline.

(B) Within sixty (60) days of the date a covered rental unit becomes exempt under the Ordinance, the landlord shall notify the Board in writing of the exempt status of the rental unit and the basis for the exemption.

(C) Within thirty (30) days after the filing of a rent registration statement, the Board shall provide a true and correct copy of said statement to the occupant of the respective unit.

[Effective Date: April 24, 1987]

804. Notification of Changes of Name or Address of Landlord and/or Property Manager

(A) Within sixty (60) days of any change in the owner and/or property manager of a rental unit, the landlord shall notify the Board in writing of the change.

(B) Within sixty (60) days of any change in the address of the owner and/or property manager of a rental unit, the landlord shall notify the Board in writing of the change. The Board shall send all notices to the landlord at the most current address provided by the landlord. Failure to receive a notice as a result of noncompliance with this section shall not be a good cause for purposes of waiving penalties owed to the Board.

[Effective Date: April 24, 1987]

805. Base Rent Ceiling: Uncertainty

Landlords who are uncertain about the amount of lawful rent on May 31, 1980, shall provide the actual rent in effect on May 31, 1980, as requested in Part II, G. of the Registration Statement for Individual Units and shall attach a statement to the registration form explaining the reasons for their uncertainty.

[Effective Date: August 28, 1980]

806. (RESERVED)

807. Exemption from Registration for units with tenants receiving monthly assistance through the Section 8 Program or the Shelter Plus Care Program or equivalent rent subsidy program

(A) Purpose. Under the Ordinance (BMC 13.76.050.D) units are exempt from rent registration and related rent ceiling requirements when they are occupied by tenants who receive monthly rent subsidies through the Section 8, Shelter Plus Care or equivalent federally funded program, but only so long as the rent demanded does not exceed the payment standard. The exemption is intended to encourage landlords to rent to tenants receiving such assistance, and the purpose of the limitation on the exemption is to provide tenants in these programs with protections equivalent to those of unsubsidized tenants so that their rents cannot be raised above the payment standard unless the increase conforms with the Annual General Adjustments allowed under the ordinance.

These regulations clarify when a unit qualifies for and no longer qualifies for the exemption. They specify that a unit no longer qualifies for exemption when the landlord raises the rent above the payment standard. They further specify that the exemption continues to apply if the landlord has not raised the rent to bring it over the payment standard but instead the BHA has lowered the payment standard below a rent that originally qualified the unit for exemption.

(B) Applicable Payment Standard: Definition. The applicable payment standard is the maximum rental assistance that the Housing Authority can provide to a household based on the number of bedrooms that the tenant household qualifies for.

- a. If an owner accepts an initial rent based on the payment standard for fewer bedrooms than the rented unit contains, the applicable payment standard shall continue to be based on the same number of bedrooms unless the Housing Authority qualifies the tenant to receive subsidy based on a larger number of bedrooms.
- b. If the Housing Authority approves an initial rent above the payment standard, that initial rent shall be considered the applicable payment standard for that unit until it is equaled or exceeded by the payment standard set by the Housing Authority.

(C) Units Qualifying for Exemption. As long as the rent is no higher than the payment standard the unit qualifies for exemption from Section 13.76.080 Rent Registration, 13.76.100 Establishment of Base Rent Ceiling and Posting, Section 13.76.110 Annual General Adjustment of Rent Ceilings and Section 13.76.120 Individual Adjustment of Rent Ceilings. The unit will no longer qualify for these exemptions if the rent is increased to a level above the payment standard.

If, however, the payment standard is lowered so that a previously agreed upon rent that was originally within the payment standard is now above the payment standard, the unit will continue to qualify for exemption from Section 13.76.080 Rent Registration, 13.76.100 Establishment of

Base Rent Ceiling and Posting, Section 13.76.110 Annual General Adjustment of Rent Ceilings and Section 13.76.120 Individual Adjustment of Rent Ceilings.

[Adopted: 07/19/13]

808. Registration Fee for Authorized Seasonal Rentals in Fraternities and Sororities

(A) Definition. As defined by Regulation 520, an “authorized seasonal rental” is a rental unit occupied by a tenant who is not an active member of a fraternity or sorority in a property owned and operated by the fraternity or sorority (or a unit owned by an entity whose sole purpose is the maintenance and operation of the fraternity or sorority’s rental units) for only part of the year. The vast majority of authorized seasonal rentals occur during the summer months when the University of California Berkeley has its summer session. As defined in this regulation, “authorized seasonal rentals” shall have no relation to “short-term seasonal rentals” as defined in Regulation 1014.

(B) Reduced Registration Fee for Authorized Seasonal Rentals. The Board charges landlords an annual registration fee pursuant to B.M.C. 13.76.080D. set in accordance with B.M.C. 13.76.060N. Rental units operated as authorized seasonal rentals shall be charged a reduced Registration Fee set by the Board when it passes its annual registration fee for all units. The Board shall publicize the fee and identify all properties subject to the reduced fee for authorized seasonal rentals. The fee shall be paid no later than July 1 of each year and shall be subject to all penalties (proportionally reduced based on the total amount of the fee) as defined in B.M.C. 13.76.080, et seq.

[Adopted April 24, 2017.]

809 - 829 (RESERVED)

830. Rent Registration Statements: Public Availability

The Rent Registration Statements submitted to the Board shall be public records open to inspection by members of the public.

[Effective Date: January 14, 1981]

[Original policy on confidentiality adopted 8/20/80. Present rule, repealing former policy, adopted January 14, 1981.]

831 - 879 (RESERVED)

880. Registration Fee Due Date

Pursuant to Sections 6(n) and 8(d) of the Rent Stabilization Ordinance, the Board establishes an annual per unit registration fee to cover the Board=s reasonable expenses. The fee shall be paid no later than July 1 of each year. The fee is considered paid on the date it is received in the Board office, or the bona-fide post-mark date, whichever is earlier.

[Effective Date: 10/02/80; amended 06/06/97, 05/07/99, 05/08/03 eliminating actual fee amount]

881. Delinquent Registration Fees and Penalties

(A) If the full fee is not paid by July 1, of any year after 1991, it is delinquent, and a penalty equal to one hundred percent of the fee so delinquent shall become due in addition to the fee. Every six months that the fee remains delinquent, the penalty shall be increased by one hundred percent of the original fee. Landlords whose fee payments are delinquent will be notified by Board staff as soon as possible of this fact and the amount, including the penalty, which they owe. Although partial payments will be accepted, rental units will not be considered to be properly registered until the full fee, including any penalty, has been paid for them.

(B) The fee is not delinquent if the required amount has been paid on or before September 2, 1980, even if the registration statement is not properly completed until after that date, as long as the unit for which the fee was paid is identified as the property address at the time of payment, or staff determines there is good cause for lack of that information.

[Regulation 881 effective October 2, 1980; amended June 6, 1997]

882. (RESERVED)

883. Waiver of Penalties and Interest on Delinquent Registration Fees

A landlord who is assessed a penalty pursuant to Regulation 881 may request the Board to waive all or part of the penalty by showing good cause for the delinquent payment. In order to implement the provisions of Section 8(f) of the Rent Stabilization Ordinance, the Board has determined that the following circumstances constitute good cause for waiver of penalties. When substantial delays in billing or delays in reconciling accounts are attributable to City staff, the penalties otherwise due will be waived. The Rent Board Executive Director, or his or her designee, is empowered to waive late payment penalties under the following circumstances:

(A) An invalid or erroneous account number was assigned, which resulted in billing errors or improper crediting of payments by the landlord.

(B) The landlord was billed for a fewer number of units because of errors in property records maintained by the City where the error was not attributable to information supplied by the landlord. The penalties are waived only for unbilled units; the billed units should be paid on time.

(C) The billing address of the landlord has not been corrected after the owner had notified the Board in writing of a change of address.

(D) A previously registered property was not billed as a result of staff error.

(E) A property account was erroneously closed for reasons not attributable to the landlord, and the account is subsequently reopened and billed.

(F) The determination of whether or not the property was subject to the Ordinance required an analysis by Rent Board legal staff. Penalties will be waived only while the legal opinion is pending. If the landlord raised the issue requiring legal determination, penalties will be waived only from the date of the first written contact with the Board in which the issue was raised.

Waiver of penalties will not be granted if the legal staff determines that the issue raised is already settled and/or has no substantial merit. If the legal issue was raised by Rent Board staff, the waiver period commences on the date on which the legal opinion was requested by the staff. In all situations in which a legal opinion was requested, the waiver period terminates when the landlord is notified of the legal determination regarding the status of his/her property.

In all cases in which a waiver is granted pursuant to the provisions of this subsection, penalties will again accrue if the bill is not paid within 30 days after the error has been corrected and the landlord has been notified of the determination of the status of his/her property under the Ordinance.

(G) Other errors in billing or reconciling accounts are directly attributable to Rent Board or City staff.

(H) The late payment of a fee due on July 1st is made, without deliberate delay, by August 30th of the same year (within 60 days of the July 1st due date), and all other balances due are paid within that time. In such case, the Executive Director will, except as provided in subsection (J) below, waive the penalties based on the landlord's payment history for the

property in accordance with the following schedule:

For the first late payment within the prior six years, -	100% of penalties waived;
For the second late payment within the prior six years, -	90% of penalties waived;
For the third late payment within the prior six years -	75% of penalties waived;
For the fourth late payment within the prior six years -	55% of penalties waived;
For the fifth late payment within the prior six years -	30% of penalties

waived;

For the sixth late payment within the prior six years -	waiver denied.
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For the purposes of this subsection (H), “landlord” means the current property owner . However, if the landlord was not a bona fide purchaser for value, this definition includes the immediate predecessor owner.

(I) A new owner with no other residential rental property in Berkeley was unaware of the property registration requirements of the Rent Ordinance and registered the property within 12 months of acquiring title to the property. In such case, the Executive Director will, except as provided in subsection (J) below, waive the penalties in accordance with the following schedule:

The property contains 1 or 2 rental units	-	100% of penalties waived;
The property contains 3 to 5 rental units	-	90% of penalties waived;
The property contains 6 to 10 rental units	-	75% of penalties waived;
The property contains 11 to 20 rental units	-	50% of penalties waived;

If a property covered by the above schedule is registered between 12 and 24 months after the new owner acquired title, the percentage of penalties waived will decrease by 10%. Waiver requests for new owners of property containing more than 20 units or of properties that were not registered within 24 months of acquiring title will be evaluated pursuant to Regulation 884(B).

This subsection (I) does not apply if a prior owner incurred penalties that are outstanding and subject to review under any circumstance listed in Regulation 884(B), except subsections 884(B)(5) and (B)(6).

(J) The payment schedules in subsections (H) and (I) above will not apply if the Executive Director, or his or her designee, recommends that the Board review the request under Regulation 884(B) because the interests of justice require that a greater or lesser amount be waived.

[Regulation 883 amended by the addition of (G) effective 1/12/83; amended by deleting “and interest” and by the addition of (H), effective 6/6/97 and as amended 3/20/98; amended August 21, 2000 by adding the last sentence to H; amended 6/24/03 with addition of (I) and other various changes; amended July 20, 2009 change in (H) first sentence added *without deliberate delay*, by *August 30* instead of September 30 and fee is due within *60 days* instead of 90; amended December 13, 2010, by revising (H) to add *and all other balances due are paid within the 60 days* and define landlord for the purposes of this regulation, adding (J) and references to it in (H) and (I), and making various other changes; amended November 21, 2011 by deleting reference to automatic waivers for late payment of fees for a previously non-exempt unit.]

884. Other Waiver Requests

(A) Waiver requests for good cause that do not meet the criteria enumerated in Regulation 883 will be referred to the Executive Director for review. The Executive Director, or his or her designee, will evaluate the request and determine if it should be reviewed ministerially by staff, or on a discretionary basis by the full Board. The Board will examine whether there is good cause to waive some or all of the penalties.

(B) Discretionary Waivers. The determination of good cause for a waiver of penalties depends on the totality of the circumstances in the following categories:

(1) The good cause asserted in the waiver request is a death or illness in the landlord's family;

(2) The waiver request was filed following the initiation of legal action by the Rent Board to recover unpaid registration fees;

(3) Rent Board records indicate that, on or after January 1, 1999, the landlord requesting the waiver had served a notice of termination of tenancy pursuant to Civil Code section 1946, 1946.1, or 1954.535, or a notice of intent to withdraw accommodations pursuant to Berkeley Municipal Code section 13.77.050 (Ellis Act);

(4) Two or more rental units at the property for which the waiver is requested are not available for rent;

(5) A tenant at the property for which the waiver is requested filed an Individual Rent Adjustment or Rent Withholding petition during the prior five years;

(6) The landlord requesting the waiver owns or manages 11 or more rental units;

(7) The landlord requesting the waiver was not the owner of the property when the penalty first accrued;

(8) The penalty has accrued because registration fees have not been paid for three or more fiscal years;

(9) A notice of default or notice of sale for the property has been recorded with the county recorder's office pursuant to Civil Code section 2924, within the past five years;

(10) The landlord has paid late each year for the prior five years;

(11) The Executive Director, or his or her designee, recommends that the interests of justice require that a greater or lesser amount be waived.

(12) The property is on the inventory of potentially hazardous soft story buildings, as defined in the Soft Story Ordinance (Berkeley Municipal Code Chapter 19.39), but the landlord is not in compliance with that ordinance. For the purposes of this

Regulation, compliance with the Soft Story Ordinance means that the landlord has notified tenants and posted a notice as required by B.M.C. section 19.39.060, and submitted an Initial Screening and seismic engineering evaluation report as required by B.M.C. section 19.39.070, by the applicable deadline under B.M.C. section 19.39.090.

(C) Ministerial Waivers. For all other waiver requests, the landlord's recent payment history will determine penalties using the following schedule:

First late payment within the prior five years -	100% of penalties waived;
Second late payment within the prior five years -	80% of penalties waived;
Third late payment within the prior five years -	60% of penalties waived;
Fourth late payment within the prior five years -	40% of penalties waived.
Fifth late payment within the prior five years -	the waiver request will be decided by the full Board in accordance with Regulation 884(B)(10).

(D) For the purposes of this Regulation 884, "landlord" means the current property owner. However, if the landlord was not a bona fide purchaser for value, this definition includes the immediate predecessor owner.

(E) Where a waiver of penalties paid to the Board is granted in whole or in part, the amount of the waiver will be credited to the landlord's account to offset future registration fees unless the Executive Director, upon written request of the landlord, determines that there is good cause to issue a refund.

(F) A waiver of penalties granted under this regulation is conditional upon payment of the balance due within the time period designated by the Executive Director or the full Board.

[Amended February 5, 1999; amended August 21, 2000 by changing the initial review of requests for waiver of late registration penalties from a Board Commissioner to a Hearing Examiner and setting forth grounds for waiver of late registration penalties as listed in A through F; amended June 24, 2003, eliminating former A – F and adding (B) 1 - 8 and various other changes; amended December 13, 2010, by clarifying the Executive Director's role in (A), eliminating service of a 3-day notice as triggering a discretionary waiver in (B) 3, adding (B) 9 – 11, establishing a new schedule in (C), defining landlord for this regulation in (D), and making various other changes. Amended July 30, 2012 by adding subsection (12) to Section (B), which adds compliance with Soft Story Ordinance as criterion for discretionary waiver requests.]

885. Responses to Waiver Recommendations

The Executive Director will send his or her recommendation on a waiver reviewed under Regulation 884 subsections (A) and (B) to the landlord at least seven days before the Board meeting at which the waiver is to be considered. Any landlord who disagrees with the Executive Director's recommendation may file a written response to be forwarded to the Board and/or address the Board at the meeting where the waiver is considered.

[Amended August 21, 2000, as reworded; amended June 24, 2003 changing Hearing Examiner's recommendation to Executive Director's recommendation on a waiver pursuant to Regulation 884 and eliminating the last sentence; amended December 13, 2010, adding first sentence and clarifying that landlord may address Board.]

886-899 (RESERVED)